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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY la DEPUTY

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21 **UNITED STATES DISTRICT COURT**
22 **SOUTHERN DISTRICT OF CALIFORNIA**

23 '07 CV 1858 J . RBB

24 Case No.:

25 U.S. EQUAL EMPLOYMENT
26 OPPORTUNITY COMMISSION,

27 **COMPLAINT—TITLE VII**

28 • **Retaliation**

Plaintiff,

JURY TRIAL DEMAND

vs.

29 RALPHS GROCERY COMPANY
30 d/b/a FOOD 4 LESS,

31 Defendant.

NATURE OF THE ACTION

32 This is an action under Title VII of the Civil Rights Act of 1964 and Title I
33 of the Civil Rights Act of 1991 to correct unlawful employment practices on the
34 basis of retaliation, and to provide appropriate relief to Pamela Lovell, who was
35 adversely affected by such practices. As set forth in this Complaint, Plaintiff

1 alleges that Defendant retaliated against Ms. Lovell when she opposed
2 discriminatory practices and refused to sign a settlement agreement wherein she
3 *inter alia* waived her right to file a Charge with the Commission.

4 **JURISDICTION AND VENUE**

5 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
6 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to
7 Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended,
8 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights
9 Act of 1991, 42 U.S.C. § 1981a.

10 2. The employment practices alleged to be unlawful were and are now
11 being committed within the jurisdiction of the United States District Court for the
12 Southern District of California.

13 **PARTIES**

14 3. Plaintiff, the U.S Equal Employment Opportunity Commission
15 ("EEOC" or "Commission"), is the agency of the United States of America
16 charged with the administration, interpretation and enforcement of Title VII, and is
17 expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII,
18 42 U.S.C. § 2000e-5(f)(1) and (3).

19 4. At all relevant times, Defendant, Ralphs Grocery Company d/b/a
20 Food 4 Less (the "Employer"), has continuously been a California corporation
21 doing business in the State of California and the City of El Centro, and has
22 continuously had at least 15 employees.

23 5. At all relevant times, Defendant Employer has continuously been an
24 employer engaged in an industry affecting commerce within the meaning of
25 Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

26 **STATEMENT OF CLAIMS**

27 6. More than thirty days prior to the institution of this lawsuit, Pamela
28 Lovell filed a charge with the Commission alleging violations of Title VII by

1 Defendant Employer. All conditions precedent to the institution of this lawsuit
2 have been fulfilled.

3 7. Since December, 2005, Defendant Employer has engaged in unlawful
4 employment practices at its El Centro, California facility, in violation of
5 Section 704 of Title VII, 42 U.S.C. § 2000e-3, by retaliating against Pamela Lovell
6 by suspending her and terminating her from her employment for having
7 complained of discrimination and having opposed discrimination, among other
8 things, by providing information to the Commission, and by providing information
9 to a co-worker's husband, and having refused to sign a settlement agreement
10 wherein she *inter alia* waived her right to file a Charge with the Commission.

11 8. The effect of the practices complained of in paragraph 7 above has
12 been to deprive Pamela Lovell of equal employment opportunities and otherwise
13 adversely affect her status as an employee, because of her participation in the
14 protected activity and in opposing discriminatory practices of Defendant
15 Employer.

16 9. The unlawful employment practices complained of in paragraph 7
17 above were and are intentional.

18 10. The unlawful employment practices complained of in paragraph 7
19 above were and are done with malice or with reckless indifference to the federally
20 protected rights of Pamela Lovell.

21 **PRAYER FOR RELIEF**

22 Wherefore, the Commission respectfully requests that this Court:

23 A. Grant a permanent injunction enjoining Defendant Employer, its
24 officers, successors, assigns, and all persons in active concert or participation with
25 it, from engaging in retaliation.

26 B. Order Defendant Employer to institute and carry out policies,
27 practices, and programs which eradicate the effects of its past and present unlawful
28 employment practices.

1 C. Order Defendant Employer to make whole Pamela Lovell, by
2 providing appropriate backpay with prejudgment interest, in amounts to be
3 determined at trial, and other affirmative relief necessary to eradicate the effects of
4 its unlawful employment practices, including but not limited to reinstatement
5 and/or restoration of the compensation, seniority and benefits she would have
6 enjoyed had she not been terminated.

7 D. Order Defendant Employer to make whole Pamela Lovell, by
8 providing compensation for past and future pecuniary losses resulting from the
9 unlawful employment practices described in paragraph 7 above, in amounts to be
10 determined at trial.

11 E. Order Defendant Employer to make whole Pamela Lovell by
12 providing compensation for past and future nonpecuniary losses resulting from the
13 unlawful practices complained of in paragraph 7 above, in amounts to be
14 determined at trial.

15 F. Order Defendant Employer to pay Pamela Lovell punitive damages
16 for its malicious and reckless conduct described above, in amounts to be
17 determined at trial.

18 G. Grant such further relief as the Court deems necessary and proper in
19 the public interest.

20 H. Award the Commission its costs of this action.

21 **JURY TRIAL DEMAND**

22 The Commission requests a jury trial on all questions of fact raised by its
23 complaint.

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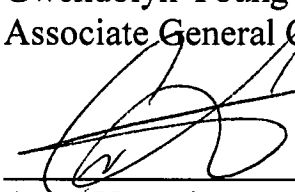
1
2 Dated: September ^{24th}27, 2007

Respectfully submitted,
U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

3
4 Ronald S. Cooper
General Counsel

5
6 James L. Lee
Deputy General Counsel

7
8 Gwendolyn Young Reams
Associate General Counsel

9
10 
11 _____
12 Anna Y. Park
Regional Attorney

13
14 Connie Liem
Trial Attorney

ORIGINAL

CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

(b) County of Residence of First Listed Plaintiff San Diego County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Anna Y. Park and Peter F. Laura, U.S. EEOC 255 East Temple Street,
Fourth Floor, Los Angeles, CA 90012, Telephone: (213) 894 1076

DEFENDANTS 2007 SEP 24 AM 9:32
RALPHS GROCERY COMPANY d/b/a FOOD 4 LESS

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
County of Residence of First Listed Defendant Imperial County, California
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'07 CV 1858 J

RBB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 42 U.S.C. § 2000e 5(f)(1) and (3) and 42 U.S.C. § 1981a

Brief description of cause:

to correct unlawful employment practices on the basis of retaliation for having complained of discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

September 24, 2007

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.